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March 1, 2018

The Honorable Nancy Joseph
United States Courthouse, Room 249
517 East Wisconsin Avenue
Milwaukee, WI 53202

RE: *United States v. Marcus Hutchins*, Case No. 17-CR-124

Dear Judge Joseph:

Per the Court's request, we conducted a search for cases discussing the disclosure of requests made by the government pursuant to mutual legal assistance treaties (MLATs) as part of discovery in federal criminal cases.

We did not find any cases squarely for or against the position we have taken in our motion to compel, which is that MLAT requests are subject to discovery under Federal Rule of Criminal Procedure 16 and are not internal government documents under subsection (a)(2).

We have identified the following cases that touch upon the issue to some extent, but have facts and circumstances dissimilar to this case:

- *United States v. Gomez Castrillon*, No. S2 05 Cr. 156, 2007 WL 2398810, at *5 (S.D.N.Y. Aug. 15, 2007) (ordering the government to review its file to ensure production of various documents, including MLAT requests).
- *United States v. Bramley*, No. CR-13-063, 2015 WL 12852046, at *22 (W.D. Okla. Sept. 16, 2015) (noting the court rejected the government's argument at trial that an MLAT request is an internal government document under Federal Rule of Criminal Procedure 16(a)(2)).
- *United States v. Executive Recycling, Inc.*, No. 11-cr-376, 2012 WL 934236, at *2 (D. Colo. March 20, 2012) (refusing to order disclosure of an MLAT where the government's interests outweighed the defendant's need under the specific facts of that case).

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Given the apparent absence of pertinent case law, the defense submits that MLAT disclosure is consistent with the open file policy defined by Criminal Local Rule 16(a)(2). That rule exempts various materials from the policy, but it does not reference MLAT requests.

Respectfully submitted,

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